



## CLOSED CASE SUMMARY

ISSUED DATE: NOVEMBER 3, 2023

FROM: DIRECTOR GINO BETTS   
OFFICE OF POLICE ACCOUNTABILITY

CASE NUMBER: 2023OPA-0202

### **Allegations of Misconduct & Director's Findings**

Named Employee #1

Allegation(s):		Director's Findings
# 1	16.300 – Patrol Canines, 16.300-POL-5. Canines in Public Areas, 1. Canine Handlers Will Maintain Control Over their Canines in Public Areas at all Times	Not Sustained - Unfounded

*This Closed Case Summary (CCS) represents the opinion of the OPA Director regarding the misconduct alleged and therefore sections are written in the first person.*

### **EXECUTIVE SUMMARY:**

Named Employee #1 (NE#1) and his canine (Canine #1) patrolled the Seattle Center Armory. Community Member #1 (CM#1)—the Complainant's three-year-old daughter—held an ice cream cone that Canine #1 attempted to eat. The Complainant alleged that Canine #1 attacked CM#1, causing her emotional distress and her hand to swell.

### **ADMINISTRATIVE NOTE:**

On September 8, 2023, the Office of Inspector General certified OPA's investigation as thorough, timely, and objective.

### **SUMMARY OF INVESTIGATION:**

OPA received a complaint and opened an investigation. During its investigation, OPA reviewed the OPA complaint, computer-aided dispatch (CAD) call report, incident report, body-worn video (BWV), email correspondence, and a memorandum. OPA also interviewed the Complainant and NE#1.

#### **A. OPA Complaint**

On May 9, 2023, a sergeant submitted an OPA complaint via Blue Team on behalf of the Complainant. The Complainant reported that, on May 6, 2023, she and CM#1 were at the Seattle Center Armory. The Complainant reported that CM#1 was eating an ice cream cone when an SPD officer and a canine walked by. The Complainant reported that the canine attempted to swallow CM#1's hand that held the ice cream cone. The Complainant reported that the canine's bite did not break skin but caused CM#1 emotional distress and her hand to swell.

#### **B. Incident Report**

NE#1 wrote an incident report. NE#1 documented the following details regarding Canine #1:



NE#1 worked with Canine #1 since July 2022. Canine #1 is a two-year-old Labrador trained in detecting explosive odors. Canine #1 is not a patrol canine and is not trained in aggression or apprehending people. Canine #1 is “well socialized” and frequently pet by many people. When pet, Canine #1 displays a warm, friendly temperament. Canine #1 never showed signs of aggression, and NE#1 never saw signs that Canine #1 would intentionally harm anyone. NE#1 witnessed many children—some as young as age two—pet and hug Canine #1, pull his tail, and place their hands on his face, but Canine #1 never reacted negatively. Canine #1 is a “food reward” dog, meaning he obtains his nutritional needs by detecting explosives—a form of training. NE#1 always used his hands to feed Canine #1, who never bit or injured his hand.

NE#1 wrote that, on May 6, 2023, at 3:55 PM, he was assigned to work at the Seattle Center Armory with Canine #1. NE#1 wrote that, due to crowds, NE#1 had Canine #1 on a “short safety,” meaning he had Canine #1’s lead shortened up and wrapped tightly around his hand, allowing him to keep Canine #1 close, to control his movement, and to minimize unwanted public contact. NE#1 described the alleged bite incident as follows:

*As we approached a narrow chokepoint of spectators, I felt a sharp tug to the left from [Canine #1]. I looked down and observed a young child, likely under five years of age, standing left of, and at roughly the height of [Canine #1’s] head. I did not initially see the child, because I was looking forward through the crowd, and above the plane of her height. One of the child’s hands was holding what appeared to be the bottom of an ice cream cone, less than an inch from [Canine #1’s] face. I observed [Canine #1] attempting to obtain the ice cream cone from the child’s hand, his mouth making incidental contact with it. I immediately pulled [Canine #1] away to correct him. The child appeared to recoil from the encounter, surprised, but did not appear to cry or indicate injury. The mouth contact made was instantaneous, and likely under one second. It was obvious to me even in that brief moment, that [Canine #1] was only attempting to opportunistically eat the ice cream cone, not bite the child’s hand or aggress in any way.*

NE#1 wrote that Community Member #2 (CM#2)—the Complainant’s sister—was with CM#1 and accused Canine #1 of biting CM#1’s hand. NE#1 wrote that he apologized and explained that the contact was due to the proximity of the ice cream cone to Canine #1’s face. NE#1 wrote that he asked if CM#1 was injured and needed medical assistance, but CM#2 declined. NE#1 wrote that he “did not see any blood, marks, or obvious injury to [CM#1’s] hand.” NE#1 wrote that CM#2 said CM#1 was not physically injured but, instead, emotionally traumatized.

NE#1 wrote that the Complainant arrived shortly after. NE#1 documented his interaction with the Complainant, which was consistent with the events captured on BWV, summarized below. NE#1 also documented the following observations during his conversation with the Complainant. First, NE#1 observed CM#1 with another child. NE#1 wrote, “Both children appeared in good spirits – laughing, playing, and at one point, dancing to the music from the live entertainment. It did not seem to me as if [CM#1] was injured or experiencing any pain.” Second, NE#1 noted that CM#2 escorted the two children close to Canine #1. NE#1 wrote, “To me, this re-approach of [Canine #1] appeared deliberate and not consistent with supervisory actions of someone who was genuinely concerned that [Canine #1] posed a danger to the child.” Third, NE#1 noted that the Complainant appeared to consumed alcohol from a “White Claw” container during their conversation.



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### **C. Body-Worn Video (BWV)**

The events captured on BWV were consistent with NE#1's incident report, summarized above. However, NE#1's BWV did not capture the alleged bite incident. NE#1 activated his BWV right before he approached the Complainant. BWV captured the following interaction between NE#1 and the Complainant.

NE#1 apologized and said he did not intend for Canine #1 to "do that." NE#1 said he had Canine #1 on a short lead and said, "The ice cream was just right there, and he loves food and he just kind of went for it." The Complainant said Canine #1 was "not well trained" because CM#1's "entire hand was in his mouth." NE#1 replied, "Um, I didn't see that. I just saw him kind of go for the ice cream and I yanked him away." NE#1 asked if he could photograph CM#1's hand, but the Complainant declined, saying CM#1 already experienced a lot of "emotional trauma." NE#1 said he always had Canine #1 around children but warned them, if given the opportunity, that Canine #1 would try to go for their food. NE#1 said he did not have the opportunity to warn CM#1.

NE#1 asked if he could pass along the Complainant's information to his sergeant, which the Complainant permitted. As the Complainant reached into her bag, CM#2 appeared to approach Canine #1. CM#1 said, "No! [Unintelligible] ... bite you!" The Complainant said, "Baby, it's not going to bite at all." NE#1 said, "He wouldn't do that." The Complainant replied, "Well, I mean, he kind of had her hand in his mouth, so far as I can tell, he will bite her. He kind of already did." While NE#1 and the Complainant exchanged information, CM#1 approached the Complainant, who picked CM#1 up. The Complainant put CM#1 back down, then CM#1 ran towards CM#2 while screaming. NE#1 asked if CM#1 needed medical assistance. The Complainant said CM#1 needed emotional medical assistance. NE#1 asked if he could do anything else for the Complainant other than apologize. The Complainant replied, "Get the dog more training." NE#1 ended his conversation with the Complainant.

Throughout NE#1's and the Complainant's conversation, CM#1 could be seen going in and out of the BWV frame due to CM#1 running around and playing with the other child. OPA observed no visible injuries on CM#1's hands. CM#1 used two hands to play with a straw. At one point, CM#1 extended her left arm out, said something to CM#2, went beside the Complainant, and picked her nose with her right hand. CM#1 appeared to use her hands freely without any problem. CM#1 did not make any facial expression indicating pain.

### **D. OPA Interviews**

#### **1. The Complainant**

OPA interviewed the Complainant. The Complainant said she was in the bathroom, so CM#1 was with CM#2 at the time of the incident. The Complainant said Canine #1 walked past CM#1, who held an ice cream cone, then "leapt over to eat the ice cream and put [CM#1's] entire hand, including the ice cream, in his mouth and chomped down, attempting to eat her ice cream from her hand." The Complainant said CM#2 pulled CM#1's hand out of Canine #1's mouth, then CM#1 cried. The Complainant said she was "extremely disturbed" that Canine #1 felt "comfortable attacking a child" in front of three officers. The Complainant said Canine #1 was "definitely going for the ice cream." The Complainant said CM#1 was in "excruciating pain and her hand swelled up all day." The Complainant said CM#1's hand had no lacerations, but the force of Canine #1's chomp hurt CM#1's hand, and the Complainant was concerned about potential damage. The Complainant said she gave medication to CM#1, who became frightened of dogs ever since the incident. The Complainant said she did not photograph CM#1's injury because her phone was broken.



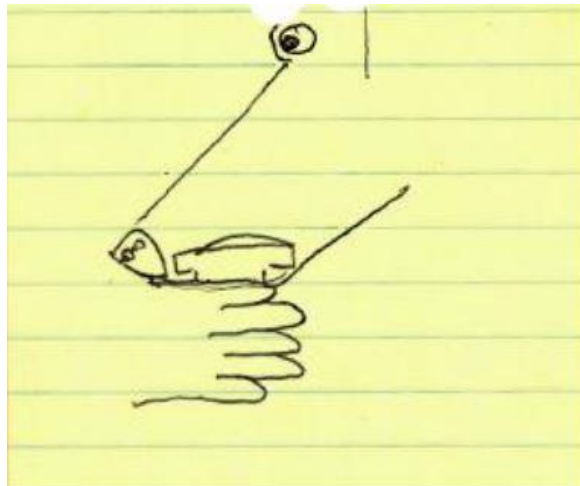
OPA asked whether Canine #1 was aggressive, growled, or out of control. The Complainant replied that CM#2 had to pull CM#1's hand out of Canine #1's mouth and described the incident as an "outrageous act" because Canine #1's instinct was to disregard a child to take something from her. The Complainant believed NE#1 made excuses for Canine #1, saying NE#1 needed to grasp the severity of the situation based on the potential damage Canine #1 could have inflicted. The Complainant believed Canine #1 needed more training.

## **2. Named Employee #1 (NE#1)**

NE#1 said he handled dogs for approximately six years. NE#1 said he was assigned to the Arson Bomb Squad as an explosives detection canine handler since 2015. NE#1 said he obtained Canine #1 from the Bureau of Alcohol, Tobacco, Firearms, and Explosives (ATF) in 2022. NE#1 described Canine #1's duties and training consistent with his incident report. NE#1 said Canine #1 only detects non-human odors. NE#1 said, "[Canine #1] doesn't have any training in aggression or biting or handler protection or anything of that sort." NE#1 said Canine #1 swept numerous concert and sports venues, but never had issues with crowds.

NE#1 said children interacted with Canine #1, who got excited, licked their faces, licked their hands, and laid on his back to get his belly rubbed. NE#1 said children hugged Canine #1, petted him, touched his nose, and pulled his tail. NE#1 said Canine #1 behaved "like an excited puppy" and never had a problem with anyone. NE#1 said he was never concerned with Canine #1, especially when Canine #1 was around children. NE#1 said he could not recall a similar incident or any complaint prior to this incident. NE#1 said Canine #1 follows his commands when he tells Canine #1 to leave something alone, but that requires time for him to interject. NE#1 said he could not interject in this incident because it happened so fast.

NE#1 described the incident consistent with his incident report. NE#1 said Canine #1, on a short safety, walked through a crowd and, although restricted by the lead, did not break away from NE#1 or move his upper body to get the ice cream due to CM#1's short height. NE#1 said CM#1 held the ice cream in front of her, so Canine #1 simply turned his head to the left since CM#1's ice cream was "just right there." NE#1 said he felt a tug, so he looked down, saw Canine #1 put his mouth on the ice cream cone for a second, pulled Canine #1 off, and apologized. NE#1 said, "There was no like getting the hand out of the mouth or a prolonged struggle or anything of that nature." NE#1 drew the following image depicting what he observed:



*NE#1's drawing of Canine #1 eating CM#1's ice cream*



NE#1 said Canine #1's mouth contacted the ice cream. NE#1 did not want to characterize it as a bite because it was more like a "nibble" or a "lick." NE#1 described Canine #1's contact with CM#1's hand as "incidental" because Canine #1 did not aim for CM#1's hand but, instead, aimed for her ice cream. NE#1 said he feeds Canine #1 from his hand every day and gets saliva on his hand or Canine #1's jowls get brushed up against his hand.

NE#1 said CM#1 did not cry or scream but looked surprised. NE#1 said CM#2 realized what occurred and became upset, accusing Canine #1 of biting CM#1. NE#1 said CM#2 made up her mind, was not interested in his explanations, and said that the Complainant needed to know about this. NE#1 asked to see CM#1's hand and speculated that she "seemed okay" because she ran off to join her friend and danced to music. NE#1 said, "In my estimation, I don't believe that [Canine #1] bit [CM#1] at all." NE#1 said he saw no injury on CM#1's hand, noting that he saw no bite marks, discoloration, indentations, redness, bruising, swelling, bleeding, or anything else indicating an injury. NE#1 said that, based on his experience, if Canine #1 chomped on CM#1's hand, her hand would exhibit significant injury, preventing her from engaging in playful activities like running around and manipulating a straw.

NE#1 described his conversation with the Complainant consistent with the events captured on BWV. NE#1 noted that the Complainant was not present when the incident occurred, so he presumed that CM#2 told the Complainant that CM#1's whole hand was in Canine #1's mouth.

NE#1 believed he followed policy. NE#1 said he did his due diligence by putting Canine #1 on a short safety, which he reflexively does when someone is about to pass him or when he enters a crowd. NE#1 said, though he cannot prevent all accidents, he "can take the necessary steps to minimize those types of things from happening." NE#1 said that if he saw CM#1 with the ice cream before Canine #1 did, he would have positioned Canine #1 away to prevent any contact with CM#1, but he had less than a split second to react. NE#1 said he did not know of any other way he could have controlled Canine #1 more effectively other than keeping him on a short safety.

#### **E. Email Correspondence**

In an email to the Complainant, OPA requested medical records regarding CM#1's injury and an interview with CM#2. The Complainant wrote that she would provide those records later and provided CM#2's phone number. OPA followed up with the Complainant twice to request those records, but the Complainant did not respond. To this day, OPA has not received CM#1's medical records. Additionally, OPA attempted to contact CM#2 but could not reach her or leave a voicemail. OPA requested the Complainant to have CM#2 contact OPA. To this day, CM#2 has not contacted OPA.

#### **F. Memorandum**

On May 8, 2023, Witness Supervisor #1 (WS#1)—a sergeant and NE#1's supervisor—wrote a memorandum to a lieutenant. WS#1 summarized the incident that was reported to him. WS#1 wrote that he directed NE#1 to, among other things, look for additional video footage, attempt to provide medical treatment, photograph any injury or the affected area, and submit a Blue Team report. WS#1 wrote, "I reviewed [NE#1's] Blue Team entry, to include BWV, and determined that his actions were consistent with Department K9 policy and no change in procedure or additional training is required."



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**ANALYSIS AND CONCLUSIONS:**

**Named Employee #1 – Allegation #1**

***16.300 – Patrol Canines, 16.300-POL-5. Canines in Public Areas, 1. Canine Handlers Will Maintain Control Over their Canines in Public Areas at all Times***

The Complainant alleged that NE#1 failed to maintain control over his canine in a public area.

Canine handlers will maintain control over their canines in public areas. SPD Policy 16.300-POL-5(1). When not specifically deployed, canines will be kept on leashes in areas that allow access to the public. *Id.*

Here, Canine #1 attempted to eat CM#1's ice cream. Although the Complainant alleged that CM#1's whole hand was in Canine #1's mouth when Canine #1 "attacked" CM#1, the evidence supports NE#1's version of the incident.

NE#1's BWV captured CM#1 running around, playing with a straw, and utilizing both her hands—activities inconsistent with recently being attacked by a dog. OPA observed no injuries on either hand. CM#1 used her hands freely without any issue and never expressed any pain. The Complainant believed Canine #1 was dangerous and poorly trained yet told CM#1 that "it's not going to bite at all" and expressed no concern when CM#1 reapproached and stood a few feet away from Canine #1. OPA requested CM#1's medical records to corroborate the Complainant's allegation that CM#1 was attacked, but the Complainant failed to produce any. The Complainant alleged that CM#1's hand swelled up all day, requiring her to give CM#1 medication, but the Complainant did not corroborate any of these claims. The Complainant and CM#2 both refused a medical evaluation of CM#1 on site, and the Complainant refused to permit NE#1 to photograph CM#1's hand—facts suggesting that CM#1 did not sustain an injury. In fact, the Complainant acknowledged that CM#1's hand had no lacerations, suggesting instead that there was "potential damage."

The Complainant's characterization that Canine #1 is aggressive is inconsistent with Canine #1's extensive training and experience interacting with people. NE#1 said Canine #1 was transferred to SPD from ATF, a federal law enforcement agency that vetted Canine #1 for his temperament before he underwent ATF's training program. NE#1 said Canine #1 did not receive training in aggression or apprehending people. NE#1 said Canine #1 is an explosive odor detecting dog that is well socialized and displays a warm temperament when people touch or interact with him. NE#1 expressed no concerns with Canine #1 and saw no signs of aggression. OPA asked the Complainant whether Canine #1 was aggressive, growled, or out of control at the time of the incident. The Complainant could not answer that question, instead describing the incident as an "outrageous act"—an act that the Complainant did not witness. NE#1 also said he always fed Canine #1 using his hands but never got his hand bit or injured. Canine #1's extensive training and warm temperament when interacting with people indicate that Canine #1's contact with CM#1 was incidental when Canine #1 wanted to eat CM#1's ice cream.

The Complainant's version of the incident was beset with inconsistencies. The Complainant alleged Canine #1 "attacked" CM#1 by "chomping" on CM#1's hand. If true, CM#1's hand would most likely have exhibited injuries. However, the Complainant refused any medical assistance for CM#1, saying CM#1 only needed "emotional medical assistance." The Complainant's claim that CM#1 was emotionally traumatized was also inconsistent with how CM#1 behaved on BWV, which captured her running around, playing with a straw, talking, and, according to NE#1's incident report, dancing to music. The Complainant also alleged that CM#1 became frightened of dogs ever since the incident, yet BWV captured CM#1 standing a few feet away from Canine #1. The Complainant said she was "extremely disturbed" that Canine #1 attacked CM#1 in front of three officers, which is inconsistent with her statement that



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Canine #1, rather, was “definitely going for the ice cream.” The Complainant alleged Canine #1 “leapt over to eat the ice cream,” which was improbable because Canine #1’s movement was highly restricted by the short safety.

The Complainant’s version of the incident is undermined by the fact that she did not witness the incident because she was not there. For example, the Complainant said CM#1 cried, but NE#1 disputed that, saying CM#1 did not cry or scream but looked surprised. The Complainant’s version of the incident is further undermined by the fact that her only source of information—CM#2—made questionable claims and did not provide further information to OPA. For example, according to the Complainant, CM#2 pulled CM#1’s hand out of Canine #1’s mouth, but CM#2 appeared uninterested in interviewing with OPA to elaborate on that claim. Additionally, NE#1 disputed that claim, saying the incident lasted for a second before NE#1 yanked Canine #1 away. NE#1 denied seeing CM#1’s whole hand in Canine #1’s mouth. The Complainant’s version of the incident is unsupported by the evidence.

The evidence supports NE#1’s version of the incident—that Canine #1 was attracted to CM#1’s ice cream, took advantage of an opportunity to eat it, and incidentally contacted CM#1’s hand, causing no injury. NE#1 followed policy when he kept Canine #1 on a short safety when he and Canine #1 were in a crowded area. NE#1 could not eliminate all unexpected or unintended accidents, but he took necessary steps to minimize them. Based on the evidence provided, under these circumstances, OPA finds that NE#1 maintained adequate control over Canine #1.

Accordingly, OPA recommends this allegation be Not Sustained – Unfounded.

Recommended Finding: **Not Sustained - Unfounded**